

Town of Amherst  
Zoning Board of Appeals - Special Permit  
*DECISION*

**Applicant:** Dakin Animal Shelter, 163 Montague Road, Leverett, MA.

**Owner:** Roberta C. Britt, 6 Granby Heights, Granby, MA 01033-9722

**Date Application filed with the Town Clerk:** November 18, 2005

**Nature of request:** Petitioner seeks a Special Permit, under Sections 3.330 and 3.357 to operate an educational facility and a place for the boarding of animals.

**Location of property:** West Street  
(Map 22B, Parcel 1, R-O & R-LD/FC & FPC Zones)

**Legal notice:** Published in the Daily Hampshire Gazette on November 23 and 30, 2005, and sent to abutters on November 21, 2005.

**Board members:** Thomas Simpson, Barbara Ford and Russell Frank

**Submissions:** The applicants submitted the following documents:

- A Management Plan
- An Overall Parcel Plan, Sheet L-101, dated November 17, 2005, showing the site in relation to the roadway and surrounding parcels
- A Site Plan (Preliminary), Sheet L-102, dated November 17, 2005, showing the proposed development on the site
- A Drawing entitled "Dakin Animal Shelter Concept Sketch", dated November 15, 2005, showing the front façade of the proposed main building
- A Floor Plan, dated November 15, 2005, showing the layout of the proposed main building.
- Documents describing the corporate organization of the Dakin Animal Shelter and their daily operations, including:
  - Articles of Organization, dated November 13, 2001
  - A letter from the U.S. Department of Treasury, Internal Revenue Service, dated April 30, 2002, with regard to tax exempt status under Section 501 (c) (3) of the Internal Revenue Code
  - The Mission Statement
  - The Bylaws
  - A description of the Services provided
  - A Directory of Board Members
  - Newsletters
  - Information regarding the adoption of dogs and cats
  - Training information for volunteers

Town staff submitted the following documents:

- From the Planning Department, a Memorandum re: ZBA FY2006-00023, dated December 1, 2005, commenting on the application.
- From the Fire Department, a Memorandum dated December 2, 2005, commenting on the application.
- From the Town Engineer, a Letter dated November 10, 2005, commenting on the application.

**Site Visit:** December 6, 2005

At the site visit the Board was met by Leslie Harris, Executive Director, and Lauren Carey, Director of Development for Dakin, as well as Leslie Cox, the Farm Manager for Hampshire College. The Board observed the following:

- The location of the property on a heavily-traveled road (West Street/Route 116)
- The location of the proposed entry drive
- The approximate location of the proposed buildings
- The surrounding neighborhood, consisting of Hampshire College across the road, the New England Wetland Plants facility to the immediate south and the widely-spaced residential development to the north
- The wooded site dominated by young trees, woody under-story and wetland plants.

**Public Hearing:** December 8, 2005.

At the public hearing Leslie Harris, Executive Director, Erica Gees, Architect, and Bill Cannon, Landscape Architect, presented the petition, along with Dr. Steven Ellis, a veterinarian and president of the Dakin Animal Shelter Board of Directors. Ms. Harris, Ms. Gees, Mr. Cannon and Dr. Ellis made statements regarding:

- The proposed use of the site as a dog training and learning center;
- The number of animals to be served;
- The inadequacies of the current location of Dakin Animal Shelter;
- The reasons for bringing the application to the Zoning Board of Appeals rather than the Planning Board;
- The fact that Dakin Animal Shelter is a non-profit educational institution;
- The documents that support this contention;
- A description of the existing site and the proposed buildings and site improvements, including access, stormwater management, utilities and parking;
- A description of the detailed design of the buildings;
- The proposed hours of operation;
- Control of noise;
- Concerns of the Fire Department and the Town Engineer;
- Proposed staffing;
- Trash and recycling;
- Snow storage;
- The small area for retail sales of dog-related items;
- Wetlands on the site;
- Proposed filling;
- Cooperation with Hampshire College, the Town of Amherst school system and others regarding internships and volunteer programs;
- The educational component of Dakin's mission;

- The narrow piece of land to the east of the site and whether it will be used;
- The schedule for construction;
- The use of the site as a conference center;
- The cleaning and disinfecting of animal areas;
- Special events.

Lucy Benson of 46 Sunset Avenue, Larry Archey, Director of Campus Planning for Hampshire College, Roberta Brick, of 6 Granby Heights, Granby and Alice Epstein of 37 Bay Road spoke in support of the application.

Mr. Simpson noted that the Board would need to continue the public hearing in order to hear from the Farm Committee and the Conservation Commission.

Mr. Frank stated that in order to be considered a non-profit educational institution under Mass. General Law c. 40A, Section 3 and the Zoning Bylaw an organization needs to have an educational component and its primary or dominant use needs to be educational.

Mr. Simpson referred to materials from the Citizen Planner Training Collaborative and stated that the educational use does not need to be the primary use of the organization. The Board discussed whether Dakin's primary use was educational.

Ms. Harris presented the Articles of Incorporation and the Bylaws of the Dakin Animal Shelter as evidence that the organization was a non-profit educational institution, whose primary or dominant activity is educational.

There was lengthy discussion between the Board and the Dakin staff about the educational component of Dakin's operation.

Ms. Ford and Mr. Frank stated that the Board needed to make a determination that the dominant use on the site would be educational. They also stated that they would like the Town Counsel, Alan Seewald, to review their motion and vote.

Mr. Frank MOVED that the Board finds that the primary or dominant use of the Dakin Animal Shelter is educational. Ms. Ford SECONDED the motion. The Board VOTED unanimously to approve the motion.

The Board noted that if Counsel agrees with this motion then the Special Permit can be granted.

Mr. Simpson noted that the Board would need to continue the evidentiary portion of the public hearing in order to obtain new site plans, landscaping plans, more complete building plans, and in order to allow the applicant to address the comments of the Fire Department and the Town Engineer.

Mr. Simpson noted that, unless Town Counsel disagrees with the motion approved by the Board, then Dakin could be assured that they would receive a Special Permit.

Tom Simpson MOVED to continue the evidentiary portion of the public hearing to January 26, 2006, at 7:30 p.m. Barbara Ford SECONDED the motion. The Board VOTED unanimously to continue the evidentiary portion of the public hearing.

**Continued Public Hearings:**

**January 26, 2006** – No new information had been submitted by the applicant and the applicant verbally requested that the hearing be continued. Only one member of the Board, Mr. Simpson, was present. Mr. Simpson stated that the evidentiary portion of the public hearing would be continued to March 23, 2006.

**March 23, 2006** – No new information had been submitted by the applicant and the applicant verbally requested that the hearing be continued. Therefore Mr. Frank MOVED to continue the evidentiary portion of the public hearing to May 11, 2006. Mr. Simpson SECONDED the motion. The Board VOTED unanimously to continue the evidentiary portion of the public hearing to May 11, 2006.

**May 11, 2006** – No new information had been submitted by the applicant and the applicant verbally requested that the hearing be continued. Only two members of the Board were present. Mr. Simpson and Ms. Ford stated that the evidentiary portion of the public hearing would be continued to June 1, 2006.

**June 1, 2006** – No new information had been submitted by the applicant and the applicant verbally requested that the hearing be continued. Only one member of the Board was present. Mr. Simpson stated that the evidentiary portion of the public hearing would be continued to July 11, 2006.

**Public Hearing – Decision:**

**July 11, 2006** – The applicant submitted a letter, dated June 23, 2006, requesting that the application be withdrawn without prejudice. Mr. Simpson MOVED to approve the withdrawal without prejudice. Mr. Frank SECONDED the motion.

For all the reasons stated above the Board VOTED unanimously to approve the WITHDRAWAL WITHOUT PREJUDICE of the application of Dakin Animal Shelter, under Sections 3.330 and 3.357 to operate an educational facility and a place for the boarding of animals at West Street, (Map 22B, Parcel 1, R-O & R-LD/FC & FPC Zones).

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THOMAS SIMPSON

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BARBARA FORD

\_\_\_\_\_  
RUSSELL FRANK

FILED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2006 at \_\_\_\_\_,  
in the office of the Amherst Town Clerk \_\_\_\_\_.

TWENTY-DAY APPEAL period expires, \_\_\_\_\_ 2006.  
NOTICE OF DECISION mailed this \_\_\_\_\_ day of \_\_\_\_\_, 2006  
to the attached list of addresses by \_\_\_\_\_, for the Board.